



null / ALL

Transmittal Number: 24369614
Date Processed: 01/24/2022

Notice of Service of Process

Primary Contact: Gregory J. Newman
Waffle House, Inc.
5986 Financial Drive
Norcross, GA 30071-2949

Entity: Waffle House, Inc.
Entity ID Number 3162767

Entity Served: Waffle House, Inc

Title of Action: Kenol Marcellin vs. Waffle House, Inc.

Matter Name/ID: Kenol Marcellin vs. Waffle House (10669554)

Document(s) Type: Summons/Complaint

Nature of Action: Personal Injury

Court/Agency: Miami-Dade County Circuit Court, FL

Case/Reference No: 2021-026850 CA01

Jurisdiction Served: Florida

Date Served on CSC: 01/24/2022

Answer or Appearance Due: 20 Days

Originally Served On: CSC

How Served: Personal Service

Sender Information: The Borrow Law Firm
305-859-1000

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

Filing # 141996567 E-Filed 01/14/2022 10:09:32 AM

IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

KENOL MARCELIN,

CASE NO.: 2021-026850 CA01

Plaintiff,
vs.

WAFFLE HOUSE, INC.,

Defendants.

Received: 1/24/22 @ 900A
Served: 1/24/22 @ 130P

Richard Kolodgy, CPS #204
Second Judicial Circuit

S U M M O N S

THE STATE OF FLORIDA:
TO ALL AND SINGULAR THE SHERIFFS OF SAID STATE:

YOU ARE HEREBY COMMANDED to serve this Summons and a copy of the Complaint or Petition, in the above styled cause upon the Defendant:

Waffle House, Inc. By Serving
c/o Corporate Service Company
12001 Hays Street
Tallahassee, FL 32301

Each Defendant is hereby required to serve written defenses to said Complaint or Petition on Plaintiff's attorney, whose name and address is:

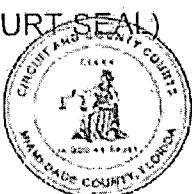
**THE BORROW LAW FIRM- One Flagler Building- 14 NE 1st Ave, Suite 514, Miami,
FL 33132**

within twenty (20) days after service of this Summons upon that Defendant, exclusive of the day or service, and to file the original of said written defenses with the Clerk of said Court either before service on Plaintiff's attorney or immediately thereafter. If a Defendant fails to do so, a default will be entered against that Defendant for the relief demanded in the Complaint or Petition.

WITNESS my hand and the seal of the Court on 1/19/2022, 2022.

Harvey Ruvin
Clerk of Circuit Court
By: John Bittel
DEPUTY CLERK

(COURT SEAL)



IN THE CIRCUIT COURT OF THE
11TH JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

KENOL MARCELIN,

CASE NO.:

Plaintiff,

vs.

WAFFLE HOUSE, INC.,

Defendants.

COMPLAINT

COMES NOW the Plaintiff, **KENOL MARCELIN**, sues the Defendant, **WAFFLE HOUSE, INC.**, a Florida corporation and alleges:

JURISDICTIONAL AMOUNT

1. This is an action for damages in excess of the sum of THIRTY THOUSAND (\$30,000.00) DOLLARS, exclusive of interest and costs.

IDENTIFICATION OF PARTIES

2. That at all times material hereto Plaintiff, **KENOL MARCELIN**, was a resident of Miami-Dade County, Florida

3. That at all times material hereto, Defendant, **WAFFLE HOUSE, INC.**, is a Florida corporation, authorized to do and doing business in Miami-Dade County, Florida.

4. That at all times material hereto, Defendant, **WAFFLE HOUSE, INC.**, owned, operated, maintained and/or otherwise controlled the premises/business located at 19675 NW 2nd Ave, Miami Gardens, Miami-Dade County, Florida

FACTS GIVING RISE TO CAUSE OF ACTION

5. At all times material hereto, Plaintiff, **KENOL MARCELI**, was a customer at the subject premises and invitee of the Defendant, **WAFFLE HOUSE, INC.**.

6. That on or about November 7, 2020, Plaintiff was violently attacked and robbed at gunpoint while he was attempting to pick up a "to go" for order from the subject

Waffle House restaurant.

7. That at said time and place, a security guard hired and retained by Defendant, **WAFFLE HOUSE, INC.**, did not intervene or take any action in an attempt to deter or stop the criminal attack.

8. That at said place and time, Defendant, **WAFFLE HOUSE, INC.**'s deficient negligent security measures directly resulted in Plaintiff, **KENOL MARCELIN**, being violently attacked and robbed at gunpoint which caused him both serious and permanent personal injuries and other economic damages as are more fully alleged herein.

COUNT I

PLAINTIFF'S KENOL MARCELIN'S NEGLIGENCE CLAIM AGAINST
WAFFLE HOUSE, INC.

9. Plaintiff adopts and reasserts Paragraphs 1 through 8 as if specifically set forth herein and further alleges:

10. At all times material to this action, the Defendant, **WAFFLE HOUSE, INC.**, knew, or should have known, of the substantial history of criminal activity, including but not limited to assault, battery, and other criminal activity on, and in the immediate vicinity of, the subject premises.

11. Based upon this history of prior criminal activity, the attack upon Plaintiff, **KENOL MARCELIN**, was reasonably foreseeable to Defendant, **WAFFLE HOUSE, INC.**

12. Notwithstanding its duties, Defendant, **WAFFLE HOUSE, INC.**, by and through its agents, security personnel, and other employees acting within the course and scope of their employment, was negligent and breached its duties in one or more of the following ways:

- a. Failed to exercise reasonable care and provide for the safety of all persons present by invitation on the subject premises;

- b. Failed to provide a reasonably safe premises to all business invitees or person otherwise present by invitation on the subject premises;
- c. Failed to properly provide protection for the safety of its business invitees or persons otherwise present by invitation on the subject premises;
- d. Failed to implement proper procedures, precautions, rules and regulations concerning security and safety on the subject premises;
- e. Failed to provide proper and/or sufficient security for all persons invited onto the subject premises;
- f. Failed to properly supervise and monitor the activities and conduct of persons present on the subject premises;
- g. Failed to provide proper and/or sufficient security measures to monitor activities and safeguard the well being of invitees present on the subject premises;
- h. Failed to otherwise implement proper security measures to control or prevent the foreseeable incidence of violence occurring on the subject premises;
- i. Failed to otherwise implement proper security procedures for the control and/or prevention of foreseeable criminal activity on the subject premises.

13. As a direct and proximate result of the aforementioned acts of negligence by Defendant, **WAFFLE HOUSE, INC.**, individually and/or through its agents, security personnel or other employees acting within the course and scope of their employment, and under the circumstances hereinabove alleged, Plaintiff, KENOL MARCELIN, was violently attacked and robbed at gunpoint and injured in and about his body and extremities, suffered pain there from, suffered physical handicap, physical impairment, disability, disfigurement, inconvenience, mental anguish, loss of the capacity for the

enjoyment of life, expense of hospitalization, medical and nursing care and treatment, property damage, loss of personal property, loss of wages in the past, loss of earning capacity in the future and aggravation of a previously existing condition. The losses are either permanent or continuing and Plaintiff, **YURI CANIVE**, will suffer the losses in the future.

DEMAND FOR JURY TRIAL

WHEREFORE, Plaintiff, **KENOL MARCELIN**, demands judgment for damages against the Defendant, **WAFFLE HOUSE, INC.**, in excess of THIRTY THOUSAND DOLLARS (\$30,000.00) together with lawful costs of this suit and hereby demands trial by jury of all matters triable as of right by jury.

Dated this 13th day of December, 2021..

By: s/Brett L. Borrow
Brett L. Borrow
Florida Bar No.: 0100341
Attorneys for Plaintiff
THE BORROW LAW FIRM
One Flagler Building
14 NE 1st Avenue, Suite 514
Miami, FL 33132
Telephone: (305) 859-1000
Facsimile: (305) 718-0633
Primary E-Mail: bborrow@borrowlaw.com
Secondary E-Mail: jrodriguez@borrowlaw.com